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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/725,142 | 11/29/2000 | Julian L. Henley | 3824-4 | 8283 |

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ARLINGTON, VA 22201-4714

EXAMINER

KARMIS, STEFANOS

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3624

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary

Application No.

09/725,142

Applicant(s)

HENLEY, JULIAN L.

Examiner

Stefano Karmis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 21, 30-35 and 50-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 21, 30-35 and 50-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11 January 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. The following communication is in response to Applicant's amendment filed 17 November 2004.

Status of Claims

2. Claims 1, 21, 30, 35, 50, 52, 54, 56 and 58 have been currently amended. Claims 2-17, 31-34, 51, 53, 55, 57, 59 and 60 are left as originally filed. Claims 18-20, 22-29, 36-49 and 61-64 are cancelled. Therefore claims 1-17, 21, 30-35 and 50-60 are under prosecution in this application.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-17, 21, 30-35 and 50-60 rejected under 35 U.S.C. 103(a) as being unpatentable over Bid For Surgery Online, Medicine Online Public Relations (hereinafter MOL) in view of DiRienzo U.S. Patent 6,006,191.

Regarding independent claim 1, 21, 30 and 35, MOL teaches an online computerized method for arranging scheduled delivery of personal medical services from a provider having verified qualifications, said method comprising:

posting online at least one proffered personal medical service in association with a provider of such service and having verified the service provider's qualifications for providing such service (page 1, paragraph 4); and

receiving online bids for such service as proffered by prospective service providers (page 1, paragraph 4).

obtaining information from online sources describing the health or financial condition of the prospective patient (page 1, paragraph 3);

MOL fails to teach that a medical service provider posts the service and allows the patient to bid. The system taught by MOL is merely a reverse of the current application.

DiRienzo teaches a system in which medical service providers review medical images during downtime based upon patient bidding (Abstract, column 11, line 3e thru column 12, line 10).

Therefore it would have been obvious one of ordinary skill in the art at the time of the Applicant's invention that the teachings of MOL could have been modified to reverse the auction format and allow patients to bid for medical service as taught by DiRienzo because it allows the patient to possess more control in the auction for a service originally sought by the patient.

Claim 2, posting includes proffered specifications received in association with provisions of said proffered service (page 1, paragraph 3).

Claim 3, said proffered specifications include price (page 1, paragraph 3). MOL fails to specify time and location for provision the service. MOL teaches providing background information and arranging a meeting. Official Notice is taken that scheduling time and place is old and well known in the art. Therefore it would have been obvious to modify the teachings of MOL to include time and location because it is usual background information and is necessary for the two parties to arrange the scheduled meeting.

Claims 4 and 5, MOL fails to teach the manner in which pricing is set. Official Notice is taken that determining pricing on factors is old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of MOL and include pricing factors such as projected future utilization, facilities, minimum price and base price because they are all factors in determining a fair rate for both parties involved.

Claim 6, specification include conditions precedent to the provision of said service, said conditions precedent including the health and suitability of the prospective user for receiving the proffered service (page 1, paragraph 3).

Claim 7, in response to tentative online agreement between a prospective service provider and a prospective user, providing contract details to the provider and/or user to permit direct follow-up communication there between to finalize the tentative online agreement (page 1, paragraph 5).

Claims 8 and 9, MOL fails to teach the manner in which payment is sent. Official Notice is taken that determining payment method is old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of MOL and include payment methods because it is common information to transmit during a financial transaction.

Claim 10 and 11, MOL fails to teach providing previous user feedback. Official Notice is taken that providing reviews of a seller's performance in an auction is old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of MOL and include feedback by previous users because it is an efficient manner to communicate the level of customer satisfaction with a given service provider.

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Claim 12, obtaining online information about the prospective user's health or financial condition and supplying such information to said service provider for use in determining an online response to the prospective user's bid for service provision (page 1, paragraph 3).

Claims 13 and 14, MOL fails to teach C:P or ICD-9 codes. Official Notice is taken that codes are well known in the medical profession. Therefore it would have been obvious to post CPT or ICD-9 codes because it is an efficient manner to communicate all possible information to a service provider when posting information.

Claim 15, obtaining a performance price of donated or discounted services performed by a provider of a personal medical service for use in logging and tracking tax credit information (page 1, paragraph 4).

Claims 16 and 17, receiving online bids includes limiting received bids for a particular proffered service to a predetermined time window (page 1, paragraph 4).

Claims 31 and 32, enrolling patients and medical service providers in an online registration system (page 1, paragraph 1-4).

Claims 33 and 34, receiving an offer to buy the medical service posted at a specified price and storing the price (page 1, paragraphs 4-5).

Regarding claims 50-57, MOL teaches an online computerized method for arranging scheduled delivery of personal medical services from a provider having verified qualifications, said method comprising:

posting online at least one proffered personal medical service in association with a provider of such service and having verified the service provider's qualifications for providing such service (page 1, paragraph 4); and

receiving online bids for such service as proffered by prospective service providers (page 1, paragraph 4).

obtaining information from online sources describing the health or financial condition of the prospective patient (page 1, paragraph 3);

MOL fails to teach that a medical service provider posts the service and allows the patient to bid. The system taught by MOL is merely a reverse of the current application.

DiRienzo teaches a system in which medical service providers review medical images during downtime based upon patient bidding (Abstract, column 11, line 3e thru column 12, line 10).

Therefore it would have been obvious one of ordinary skill in the art at the time of the Applicant's invention that the teachings of MOL could have been modified to reverse the auction format and allow patients to bid for medical service as taught by DiRienzo because it allows the patient to possess more control in the auction for a service originally sought by the patient.

MOL further fails to teach providing patient feedback information. Official Notice is taken that providing reviews of a seller's performance in an auction is old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to modify the

teachings of MOL and include feedback by previous users because it is an efficient manner to communicate the level of customer satisfaction with a given service provider.

Regarding claims 58-60, MOL teaches an online computerized method for arranging scheduled delivery of personal medical services from a provider having verified qualifications, said method comprising:

posting online at least one proffered personal medical service in association with a provider of such service and having verified the service provider's qualifications for providing such service (page 1, paragraph 4); and

receiving online bids for such service as proffered by prospective service providers (page 1, paragraph 4).

obtaining information from online sources describing the health or financial condition of the prospective patient (page 1, paragraph 3);

MOL fails to teach that a medical service provider posts the service and allows the patient to bid. The system taught by MOL is merely a reverse of the current application.

DiRienzo teaches a system in which medical service providers review medical images during downtime based upon patient bidding (Abstract, column 11, line 3e thru column 12, line 10).

Therefore it would have been obvious one of ordinary skill in the art at the time of the Applicant's invention that the teachings of MOL could have been modified to reverse the auction format and allow patients to bid for medical service as taught by DiRienzo because it allows the patient to possess more control in the auction for a service originally sought by the patient.

MOL further fails to teach computing an adjusted bid price based upon a relative value multiplier from codes. Official Notice is taken that modifying a bid price for a modified service is old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to modify the teachings of MOL and include modified bid prices based on relative multipliers because they provide an efficient reference point to determine pricing.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (703) 305-8130. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted
Stefano Karmis
21 February 2005

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

